

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 15 1994

In the Matter of)
)
Implementation of Section 17 of the)
Cable Television Consumer Protection and) ET Docket No. 93-7
Competition Act of 1992)
)
Compatibility Between Cable Systems)
and Consumer Electronic Equipment)

PETITION FOR RECONSIDERATION AND CLARIFICATION

Barbara N. McLennan
Staff Vice President
Government and Legal Affairs

George A. Hanover
Staff Vice President
Engineering

2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-4900

Of Counsel:

Joseph P. Markoski
Jeffrey A. Campbell
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
Post Office Box 407
Washington, D.C. 20044
(202) 626-6600

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SUMMARY

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") requests that the Commission reconsider and clarify certain elements of the rules prescribed in the cable compatibility Order. The clarifications and alterations are needed to protect consumers and manufacturers against unnecessary costs and to avoid unnecessary regulation while assisting in the development of a competitive marketplace, avoiding unnecessary consumer confusion, and furthering the compatibility of cable systems with consumer electronics.

As directed by Congress, the Commission has now begun to remove some of the obstacles that restricted the ability of cable subscribers to utilize all of the features available in their television receivers and videocassette recorders. EIA/CEG firmly supports the overall thrust, and most specific provisions, of the Order. Nevertheless, EIA/CEG believes that a few changes and clarifications are needed.

First, negative labeling advisory requirements should not be imposed upon products that are not claimed to be "cable-ready." This negative labeling requirement is unsustainable as a matter of law, unjustified as a matter of policy and inconsistent with joint industry recommendations.

The Commission should clarify the ambiguous phrase "*fully* compatible with cable service." Equipment that does not meet the prescribed standards "shall not be marketed with terminology that describes the device as 'cable-ready' or 'cable-compatible' or that otherwise conveys the impression that the device is *fully* compatible with cable service." The Commission should provide concrete assurances that this regulation does not preclude continued use of terms now in use.

Second, the effective date of the restrictions on use of the terms "cable-ready" and "cable-compatible" should be delayed until the beginning of the next model year. The new restrictions take effect in the middle of the model year and some EIA/CEG members have already printed some marketing materials in large quantities for use throughout the current model year and some of the materials use the phrase "cable-ready" or the equivalent. Considerable disruption and expense could be avoided if the implementation date of the new requirements is delayed until the end of the model year, *i.e.*, June 30, 1995.

Third, cable operators should not be permitted to "channel map," which causes the channel number that is displayed not to correspond to the frequencies used in the transmission of the signal according to the IS-132 channel numbering plan. So long as this practice continues, consumers who use cable-ready receivers to tune the cable signal (in contrast to those who use cable-company supplied set-top boxes) will not be certain to find the channels they seek.

Fourth, clarification is needed regarding the distinction between signal security and other functions of in-home equipment. The Order clearly and unequivocally expresses the Commission's intention to allow competitively supplied equipment to perform all in-home functions other than signal security, but some individuals remain confused. EIA/CEG asks the Commission to reiterate that paragraph 42 requires that the Decoder Interface be designed in such a way as to enable all functions other than signal security to be provided in competitively supplied equipment and cable operators are required to offer component descramblers which perform only signal security functions.

Certain technical requirements need clarification or alteration. (1) The upper frequency limit in the regulations should be clarified and standardized at 804 MHz. (2) The 55 dB requirement for beat suppression regarding tuner overload should be lowered to 51 dB, as previously stated in the joint industry recommendations. (3) The image channel interference levels should be lowered to 50 dB for frequencies between 714 and 804 MHz.

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PETITION FOR RECONSIDERATION AND CLARIFICATION

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby requests that the Commission reconsider and clarify certain elements of the rules prescribed in the above-captioned Report and Order ("Order").¹ The clarifications and alterations proposed herein are needed to protect consumers and manufacturers against unnecessary costs and to avoid unnecessary regulation while assisting in the development of a competitive marketplace, avoiding unnecessary consumer confusion, and furthering the compatibility of cable systems with consumer electronics products. The proposed alterations and clarifications are not at odds with the spirit of the rules embodied in the Order; however, they will prevent unnecessary harm to industry and to the public in the implementation of the rules.

¹ FCC 94-80 (released May 4, 1994); official notice given on May 16, 1994 at 59 Fed. Reg. 25339 (1994).

I. INTRODUCTION

By seeking reconsideration and clarification of certain issues, EIA/CEG does not wish to obscure its enthusiastic support for the overall thrust, and for most of the specific details, of the Commission's Order. Most importantly, EIA/CEG is pleased that the Commission adopted -- as the statute intended -- a solidly pro-consumer position.

As directed by Congress, the Commission has now begun to remove some of the obstacles that restricted the ability of cable subscribers to utilize all of the features available in their television receivers and videocassette recorders ("VCRs"). In particular, the panoply of short-term measures developed to safeguard consumer interests includes the prohibition against scrambling of basic service signals; the requirement that cable subscribers have simultaneous in-the-clear access to all signals that do not require processing by a set-top device; the requirements that set-top devices not be disabled from responding to subscriber-owned remote control equipment and that the infrared codes recognized by set-top devices not be changed to prevent use of consumer-owned remote controls; and the requirement that cable operators conduct consumer education programs regarding compatibility issues. Over the longer term, the Commission has wisely embraced use of a standard Decoder Interface to minimize the need for set-top devices and acknowledged the need to set standards for digital cable transmissions in the future. And the Commission has correctly determined that the Decoder Interface must be

designed so as to allow for all functions other than signal security to be performed in competitively provided consumer electronics equipment.²

Collectively, these actions will make cable services more consumer friendly. They will increase competition, choice, and innovation in the consumers' use and control of in-home equipment. These are long strides forward toward the realization of congressional objectives.

Nevertheless, EIA/CEG believes that this strong record can be improved by a few changes and clarifications as discussed below.

II. DISCUSSION

A. **Negative Labeling Advisory Requirements Should Not Be Imposed Upon Products That Are Not Claimed To Be "Cable Ready."**

The Order requires that "consumer TV receivers and VCRs that incorporate features intended to be used with cable service but do not fully comply with the 'cable ready' standards be labeled with an advisory that appears on the device and on its packaging."³ This negative labeling requirement is unsustainable as a matter of law and unjustified as a matter of policy.

² The Commission stated that allowing for competitive supply of non-security functions "will give product developers and manufacturers, as well as cable systems operators, the ability and incentives to introduce new products and to respond to consumer demand. In return, consumers will have greater access to technology with new features and functions." "FCC Adopts Regulations To Ensure Compatibility Between Cable Systems And Consumer Electronics Equipment," FCC Public Notice, FCC 94-80, at 1 (Apr. 5, 1994).

³ Order at ¶ 83 and Appendix A (new § 15.19(d)).

1. The negative labeling requirement is without statutory foundation and is a bad precedent. The Commission does not have authority to adopt the negative labeling rules. Section 17 of the Cable Act only authorizes the Commission "to specify the technical requirements with which a television receiver or video cassette recorder must comply in order to be sold as 'cable compatible' or 'cable-ready.'"⁴ It does not authorize the converse, i.e., rules governing products which are not marketed with this nomenclature.

In an earlier filing,⁵ EIA/CEG observed that no party had identified any source of statutory authority for the Commission to impose negative labeling requirements upon products which are not claimed to be cable-ready. That statement remains true today. The order is devoid of any citation to any legal authority for such a requirement.

Further, the Commission's negative labeling requirement is inconsistent with the joint industry recommendations. The Cable-Consumer Electronics Compatibility Advisory Group ("Advisory Group") was quite clear in its position that only products expressly claimed to be "cable-ready" should be regulated.⁶ As the product of a

⁴ 47 U.S.C. § 624A(c)(2)(A).

⁵ Reply Comments of the Consumer Electronics Group of the Electronic Industries Association, at 4-5 (Feb. 15, 1994).

⁶ "The recommended approach -- and the only one which is consistent with the statute -- is simply to apply the rules to those products which are expressly claimed to be 'cable-ready' or for which the same claim is made using substantially the same language. The consumer electronics industry should be free to manufacture and market, and consumers should be free to continue to purchase, products that have none, or only some, of the characteristics which will be required in 'cable-ready' sets." Comments of the Cable-Consumer Electronics Compatibility Advisory Group, at 10 (Jan. 25, 1994)(emphasis in original).

compromise forged at the urging of the Commission, this recommendation is entitled to considerable deference.

Moreover, as a policy matter, EIA/CEG believes that it is a serious mistake to impose negative labeling requirements upon consumer electronics products. TV and VCR producers should not be forced to denigrate their own products. So long as the manufacturers and marketers make no claims to cable-ready status, they should not be forced to indicate affirmatively that particular products have not achieved that status. The consumer electronics industry strongly opposes being required to denigrate the capabilities of its products, particularly when such labeling must be placed on the product itself.⁷ The Commission should reconsider and remove this requirement.

2. Additionally, the Commission should clarify the ambiguous phrase "*fully compatible with cable service.*" Equipment that does not meet the prescribed standards "shall not be marketed with terminology that describes the device as 'cable ready' or 'cable compatible' or that otherwise conveys the impression that the device is *fully compatible with cable service.*"⁸ Examples of language that would be considered to convey such an impression are not identified in the Order. EIA/CEG is pleased that the Commission chose to italicize the word "fully" to indicate that the restriction is not intended to preclude claims that equipment is partially cable-compatible or that equipment

⁷ The consumer electronics industry already has strong incentives to provide descriptive information to consumers so as to avoid consumer complaints and to stimulate demand for more fully-featured products.

⁸ 47 C.F.R. § 15.19(d)(2)(emphasis in original).

has certain features. The phrase, however, is ambiguous enough that manufacturers and marketers will have no easily discernible guide for producing marketing materials.

The Commission should clarify how broadly (or narrowly) it interprets the phrase "*fully* compatible with cable service." For example, if marketing materials claim that a device "tunes cable channels with unsurpassed accuracy" or is "capable of receiving 125 cable channels" (or 181 channels total),⁹ do these statements "convey[] the impression that the device is fully compatible"? EIA/CEG would interpret these phrases as conveying the impression that the device is partially compatible, not as a representation that it complies with all of the detailed requirements for cable-ready products. Factual statements about certain features available from a device or claims relating to the quality of a device should be considered claims of partial compatibility and, thus, outside the aegis of the rule.¹⁰ Similarly, for the reasons given above, inclusion of features such as F connectors or 181-channel tuning should not be construed to imply any claim of full cable compatibility. EIA/CEG requests that the Commission clarify Section 15.19(d)(2) accordingly.

⁹ The common, but not necessarily universal, practice is to explain that this statement applies to unscrambled channels.

¹⁰ Additionally, EIA/CEG seeks clarification regarding the certification statement required under Canadian General Radio Regulations, Part II ¶ 19(3)(b). These regulations require the use of the phrase "Cable Compatible Television Apparatus Canada GRR Part II" on some equipment that would not meet the definition of the term "cable compatible" in the United States. EIA/CEG members produce and market some of the same products for both the United States and Canadian markets. It is essential that manufacturers not be forbidden to use a phrase by one government that another government expressly requires, especially where the Canadian label cannot reasonably be construed to imply conformance to FCC regulations.

B. The Effective Date Of The Restrictions On Use Of The Terms "Cable-Ready" And "Cable-Compatible" Should Be Delayed Until The Beginning Of The Next Model Year.

The limitations on the use of the terms "cable-ready" and "cable-compatible" in Section 15.19(d)(2) are scheduled to take effect on October 31, 1994 for all receivers manufactured or imported after that date.¹¹ The new restrictions take effect in the middle of the model year, which (depending on the manufacturer) typically runs approximately from July 1 to June 30.¹² Some EIA/CEG members have already printed some marketing materials in large quantities for use throughout the current model year and some of the materials use the phrase "cable-ready" or the equivalent. If the restrictions take effect in November, much of this material will be rendered unusable. Some EIA/CEG members have estimated the cost of reprinting materials to meet the requirement at \$100,000 to \$250,000. This enormous disruption and expense could be avoided if the implementation date of the new requirements is delayed until the end of the model year, i.e., June 30, 1995.

It is unlikely that any new materials that do not meet the restrictions will be produced. The consumer electronics industry is not seeking to prolong unnecessarily the unrestricted use of the term "cable-ready," but to avoid the cost of making a changeover of materials in the middle of a model year. Furthermore, if no new materials are created that do not meet the restrictions, compliance with the restrictions will increase

¹¹ 47 C.F.R. § 15.19(d)(2).

¹² Elsewhere in the Order, the Commission recognizes the reasonableness of implementing new receiver requirements at the time of new model introduction. Order at ¶¶ 129-130.

over the model year, with full compliance in effect for products manufactured or imported after June 30, 1995. Delaying mandatory implementation would relieve the consumer electronics industry of a burden, yet ensure ultimate compliance with the Commission's goals.

C. Cable Operators Should Not Be Permitted To "Channel Map." Channel Numbers Should Correspond To Their Assigned Frequencies.

Some cable operators have engaged in "channel mapping," a process whereby the channel number that is displayed on the set-top box does not correspond to the frequencies used in the transmission of the signal according to the IS-132 channel numbering plan. The Order does not address this issue. Consumers who use cable-ready receivers to tune the cable signal (in contrast to those who use cable-company supplied set-top boxes) will not be certain to find the channels located where they thought they should be.

For instance, a cable network might be advertised as being on Channel 10, even though the cable operator is transmitting the signal for that network on the frequencies associated with Channel 55 in the IS-132 channel numbering plan. The cable operator may adjust its set-top boxes to tune to the frequencies associated with Channel 55 when the subscriber directs the set-top box to select (and the box displays) Channel 10. As far as the consumer is concerned, that particular cable network is on Channel 10. A problem arises when the consumer attempts to tune that cable network on a cable-ready receiver without the set-top box. In order to receive the proper signal, the consumer would have to tune to Channel 55. Since that cable network is advertised and

listed as being on Channel 10, consumers will be hopelessly confused as they try to find the network without a set-top box. The more channel mapping that a cable operator engages in, the more consumer confusion will result.

The Commission should prohibit the practice of channel mapping by cable operators. Channel mapping effectively forces set-top boxes on consumers in order to receive signals on the channels as they are listed or advertised. At a minimum, channel mapping will weaken demand for new cable-ready receivers. By contrast, if cable signals must be transmitted in conformity with the channel numbering plan, consumers will be able to make fuller, confusion-free use of their cable-ready receivers, instead of being tied to unnecessary set-top boxes.

D. Clarification Is Needed Regarding The Distinction Between Signal Security And Other Functions Of In-Home Equipment._____

The Order clearly and unequivocally expresses the Commission's intention to allow competitively supplied equipment to perform all in-home functions other than signal security.¹³ Nevertheless, some individuals apparently find the Commission's intentions to be ambiguous. EIA/CEG asks the Commission to reiterate that paragraph 42 requires that (1) the Decoder Interface be designed in such a way as to enable all functions other than signal security to be provided in competitively supplied equipment and (2) cable operators be required to offer component descramblers which perform only

¹³ Order at ¶ 42.

signal security functions. A prompt clarification of this issue will facilitate development of the Decoder Interface standard by the August 15, 1994 deadline.¹⁴

E. Certain Technical Requirements Need Clarification Or Alteration.

1. The upper frequency limit in the regulations should be clarified and standardized at 804 MHz. The regulations issued in the Order contain references to both 804 MHz and 806 MHz as the upper limit for certain requirements.¹⁵ EIA/CEG seeks clarification of this issue. If consumer electronics equipment needs only be able to tune up to 804 MHz in order to be considered cable-ready, there appears to be no logical rationale for setting performance standards at levels above 804 MHz. The reason for placing the limit at 804 MHz is that it is the upper frequency limit for cable channel 125 in EIA IS-132. EIA/CEG believes that the regulations should be clarified to change all references from 806 MHz to 804 MHz instead.

2. The 55 dB requirement for beat suppression regarding tuner overload should be lowered to 51 dB. The higher beat suppression level of 55 dB is not necessary to prevent tuner overload and will unnecessarily increase the cost of producing receivers. The beat suppression level should be reconsidered and lowered to a level of 51 dB as was recommended by Advisory Group in its suggested standards.¹⁶

¹⁴ See Order at ¶ 41.

¹⁵ E.g., compare 47 C.F.R. § 15.118(b) with § 15.118(c)(2).

¹⁶ Advisory Group Comments at 13-14.

The Commission's rationale for the 55 dB level was partly based on the notion that the maximum signal level could be as high as +20 dBmV.¹⁷ Under the signal levels defined in EIA IS-23 for cable systems, +20 dBmV is the maximum level for any individual signal. The average signal level for all visual carriers must be less than +15 dBmV. The average signal level is the relevant level for considerations of tuner overload.

Tuner overload is mainly a function of the total energy input, i.e., the total energy of all of the signals. Overload distortion is generated by a non-linear process. A small percentage change in the undesired signal energy results in a large percentage change in the distortion. While signal levels at some frequencies in the cable system may reach +20 dBmV, it is rare that the average will exceed +15 dBmV and the total energy level will be significantly lower.

Since cable operators try to avoid overload in the cable system itself, they have an incentive to keep signal levels as low as possible. The lower the amount of signal delivered by the cable operator, the less concern for tuner (and system) overload. For example, a receiver with beat suppression of 51 dB for a +15 dBmV input will likely have beat suppression of at least 56 dB for a +10 dBmV input. EIA/CEG understands that some cable systems operate at a systemwide average of approximately +6 dBmV, resulting in even further improvements in beat suppression. A beat suppression level of 51 dB is sufficient to prevent tuner overload at this energy level.

¹⁷ Order at ¶ 98.

Few cable systems are currently operating on fully loaded 800 MHz. Indeed, the problem and expense that cable operators face in meeting the 51 dB suppression level for cable distribution has kept most cable systems to 550 MHz or less. Thus, the total energy output of most cable systems, in terms of both the frequencies used and strength of signal, is quite low. This obviates the need for the higher 55 dB beat suppression level. The Commission has already recognized this technical limitation. Part 76 of the Commission's Rules establishes a beat suppression threshold of 51 dB for non-coherent signals and 47 dB for coherent signals.¹⁸

The cost of improving receivers to meet the 55 dB level would be significant, without any significant increase in reception quality. EIA/CEG requests that the Commission reconsider and lower the beat suppression level to the level recommended jointly by the Advisory Group: 51 dB.

3. The image channel interference levels should be lowered to 50 dB for frequencies between 714 and 804 MHz. The Order prescribes an image channel interference level of 60 dB for all frequencies from 54 to 806 MHz.¹⁹ The Advisory Group had suggested this level be set up to 750 MHz, and the Commission considered it reasonable to extend the requirement to 806 MHz.²⁰ The potential for image channel interference at a particular frequency comes from a frequency 90 MHz (or 15 channels) above the desired signal. The highest level of concern about interference is 714 MHz

¹⁸ 47 C.F.R. § 605(a)(8) (1993).

¹⁹ Order at ¶ 106.

²⁰ Id.

because the highest channel has a maximum frequency at 804 MHz which is 90 MHz above 714 MHz. At frequencies above 714 MHz, the interference would occur above 804 MHz which is beyond the level regulated by the Commission. An interference level of 50 dB for frequencies between 714 and 804 MHz is sufficient. The Commission should reconsider and lower the level accordingly.

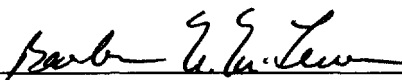
III. CONCLUSION

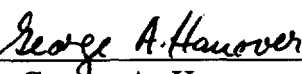
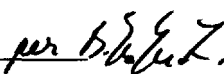
For the aforementioned reasons, EIA/CEG respectfully requests that the Commission clarify and reconsider the Order so as to (1) remove the requirement for negative labeling for products that are not fully cable-ready; (2) delay the effective date of the limitation on the use of the terms "cable-ready" and "cable-compatible"

until June 30, 1995; (3) prohibit channel mapping; and (4) correct, reconsider and clarify certain technical requirements.

Respectfully submitted,

CONSUMER ELECTRONICS GROUP
ELECTRONIC INDUSTRIES ASSOCIATION

By: 
Barbara N. McLennan
Staff Vice President
Government and Legal Affairs

By:  per 
George A. Hanover
Staff Vice President
Engineering

2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-4900

Of Counsel:

Joseph P. Markoski
Jeffrey A. Campbell
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
Post Office Box 407
Washington, D.C. 20044
(202) 626-6600

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